



County of Los Angeles CHIEF EXECUTIVE OFFICE

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Chief Executive Officer

May 19, 2014

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To: Supervisor Don Knabe, Chairman
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From: William T Fujioka
Chief Executive Officer

MOTION TO DIRECT THE SACRAMENTO ADVOCATES TO SUPPORT ADMINISTRATIVE AND/OR LEGISLATIVE PROPOSALS TO DIRECT THAT TAX INCREMENT GENERATED BY PENSION TAXES LEVIED IN ADDITION TO THE GENERAL PROPERTY TAX RATE BE RETAINED BY THE CITY THAT LEVIED THE PENSION TAX (ITEM NO. 8, AGENDA OF MAY 20, 2014)

Item No. 8 on the May 20, 2014, Agenda is a motion by Supervisor Molina to direct the Sacramento advocates to support administrative and/or legislative proposals to direct that the tax increment generated by pension taxes levied in addition to the general property tax rate be retained by the city that levied the pension tax. **Approval of this motion is consistent with Board-approved policy to support legislation that enhances the administration of property taxes by using more efficient methods of administration, and support legislation that clarifies, streamlines, and outlines clear property tax policy for local governments.**

Existing Law

Community Redevelopment Law allowed local governments to form redevelopment agencies (RDAs) to address issues of urban decay and blight. In 1952, California voters approved an amendment to the Constitution which created "tax increment financing" to fund RDAs by capturing increased property tax revenue in redevelopment project areas (Article XVI, Section 16). Tax increment revenue is the portion of property tax revenues generated from the increase in assessed value of real property that occurs after adoption of a redevelopment plan for a project area. In other words, property tax

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revenues for affected taxing entities are frozen, while any revenue in excess of the base amounts is collected by the RDAs for repayment of debt incurred to finance redevelopment activities. Article XVI, Section 16 of the Constitution states that the word "taxes" includes, but is not limited to, all levies on an ad valorem basis upon land or real properties. Ad valorem taxes may include voter-approved taxes such as pension levies to support city employee pension obligation programs/costs.

ABX1 26 (Chapter 5, Statutes of 2011) eliminated RDAs in February 2012, provided for the designation of successor agencies to wind down the affairs of the dissolved RDAs, and set forth a mechanism to distribute any net funds from the RDAs to affected taxing entities. Rather than distributing tax increment to the RDAs as had been done prior to redevelopment dissolution, that revenue is now deposited into the Redevelopment Property Tax Trust Fund (RPTTF), which is used to pay obligations of the former RDA. These obligations are listed on the Recognized Obligation Payment Schedule (ROPS) and subject to approval by the California Department of Finance (DOF). County auditor-controllers are required to administer the RPTTF and distribute the property tax revenues deposited into the RPTTF based on certain priorities. Specifically, payments from the RPTTF are made in the following order: 1) county auditor-controller administrative expenses; 2) pass-through payments to affected taxing entities that would have received payments prior to redevelopment dissolution; 3) payments required by enforceable obligations listed on the ROPS and approved by DOF; 4) an administrative cost allowance for the successor agency; and 5) State Controller's Office invoices. Remaining funds in the RPTTF are distributed to local taxing entities as "residual" property tax increment revenue.

Background

Consistent with existing law, most county auditor-controllers, including the County's Auditor-Controller, deposit property tax increment revenues, which include pension levy revenues generated in former RDA project areas into the RPTTF as tax increment. All funds in the RPTTF, including these comingled pension-related tax increment revenues, are then distributed by auditor-controllers for statutory and contractual pass-through payments to appropriate taxing entities, enforceable obligations of the former RDA, and permissible administrative costs of the successor agencies. After meeting outstanding obligations, residual funds are distributed to appropriate taxing agencies within the former RDA, including the county, city, school districts, and special districts. According to the Auditor-Controller, it is estimated that the County received, as an affected taxing entity, approximately \$1.6 million during the previous 12-month period in pension-related tax increment levied within the County.

In Los Angeles County, 12 cities have voter-approved tax levies to support city employee pension obligation costs, with a majority of these cities having received voter approval of their pension tax rate/levy in the 1940's and 1950's. The 12 cities include:

- | | |
|--------------------|-------------------|
| 1. Bell | 7. Maywood |
| 2. Compton | 8. Monrovia |
| 3. El Monte | 9. Montebello |
| 4. Huntington Park | 10. Monterey Park |
| 5. Inglewood | 11. San Fernando |
| 6. Lynwood | 12. San Gabriel |

There are a total of 24 cities and one county with similar voter-approved pension levies in the State.

It is important to note that the levying of pension-related taxes is above the one percent (1%) general tax rate on land and real property, and while the above-mentioned cities obtain voter approval within their respective jurisdictions to levy taxes to pay for pension-related cost obligations, some of these funds have been historically committed and/or diverted by these cities for redevelopment related purposes.

Related Legislation - SB 921 (Wright)

SB 921 (Wright), as introduced on January 28, 2014, would have amended existing law so that revenue generated from a property tax rate approved by voters, prior to January 1, 1948, to support city employee pension programs, be allocated to or paid into the fund of the taxing entity to support city employee pension costs, as originally intended.

According to the author of SB 921, revenues generated by voter-approved pension-related tax levies in RDAs were inadvertently captured and redistributed to all of the taxing agencies within a former RDA, and as a consequence, funds levied for specific pension indebtedness were allocated to other agencies and not for the purpose that voters originally intended.

As a result of Senator Roderick Wright's suspension from the State Senate, SB 921 was not moved forward and failed passage in the Senate Rules Committee. This measure will not proceed this year.

Status of Pension Tax-Related Litigation Against the County

In addition to SB 921, three of the 12 cities with pension tax levies within the County (San Fernando, Monterey Park, and Huntington Park) have filed lawsuits against the County, the California Department of Finance (DOF), and the State Controller's Office. The primary claims identified in the lawsuits include: 1) DOF erroneously denied pension obligations as enforceable obligations which would have resulted in all of the revenue generated from the pension levy being returned to the responsible city; or 2) the County Auditor-Controller erroneously placed pension tax revenue in the Redevelopment Property Tax Trust Fund even though taxes were pledged as payment for pension bonds.

On May 1, 2014, the court presiding over the San Fernando lawsuit issued a tentative ruling against the County and DOF stating that the pension tax revenue generated in one of the city's redevelopment project areas should have been allocated directly back to the city as these revenues were expressly excluded from the portion of tax revenues that were allocated to the RDA as tax increment in the redevelopment plan for Project Area No. 4. However, the court has granted a request from the County and DOF to file a supplemental briefing in response to the tentative ruling, which is due to the court by May 30, 2014. In terms of the Monterey Park and Huntington Park lawsuits, County Counsel has filed a response to both claims and all parties are currently awaiting the scheduling of a briefing on both lawsuits.

According to County Counsel, the County's potential exposure from the three lawsuits is approximately \$1.3 million in one-time costs. This amount represents the cumulative amount of pension-related tax increment that the County has received from these three cities over the past three years.

County Analysis

Enactment of administrative or legislative proposals directing that future tax increment generated by pension tax levies be retained by the city that levied the pension tax will ensure that these funds are used for the original voter-approved intended purpose. Consequently, approval of remedies to ensure that voter-approved pension levies are directed to appropriate cities will result in tax increment revenue reductions to affected taxing entities, including the County and special districts, because the total amount of tax increment deposited into the RPTTF will be reduced since those revenues will be directly allocated to the cities that assessed those levies.

Additionally, the enactment of these fixes will also extend the period of time necessary to pay-off the outstanding debt obligations of former RDAs, as the amount of residual

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tax increment available to successor agencies to pay outstanding debt obligations will be decreased. As noted above, the County General Fund share of residual tax increment resulting from pension taxes levied within the County was approximately \$1.6 million during the previous 12-month period.

Conclusion

Approval of this motion to direct the Sacramento advocates to support Administrative and/or Legislative proposals to direct that the tax increment generated by pension taxes levied in addition to the general property tax rate be retained by the city that levied the pension tax is consistent with Board approved policy to support legislation that enhances the administration of property taxes by using more efficient methods of administration, and support legislation that clarifies, streamlines, and outlines clear property tax policy for local governments.

Should the Board approve this motion, this office will work with the Sacramento Advocates, the Auditor-Controller, and County Counsel to pursue and support administrative and legislative proposals to address this issue.

WTF:RA
MR:RM:ma

c: Executive Office, Board of Supervisors
County Counsel